

From: [Levine, Scott](#) on behalf of [OIG FOIA](#)
To: [FOIA HQ](#)
Subject: FW: FOIA Request
Date: Wednesday, March 05, 2014 1:57:46 PM
Attachments: [EPA OIG FOIA request 1 .doc](#)

From: ELIZABETH T [mailto:lizshrt525@msn.com]
Sent: Wednesday, March 05, 2014 10:36 AM
To: OIG FOIA
Subject: FOIA Request

Please see attached FOIA request.

Thank you,

Liz Hahn-Mattioi
C.C.E.T
609 Dunmore Street
Throop, PA. 18512

March 5, 2014

Mr. Scott Levine
FOIA Officer
EPA OIG
1200 Pennsylvania Avenue, NW
Mail Code 2411T
Washington, DC 20460-0001

Re: Freedom of Information Act Request

Dear Mr. Levine,

This letter is a request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, for a copy of the following documents pertaining to the Marjol Battery and Equipment Company, 600 Delaware Street, Throop, PA 18512. Documents requested include any and all records pertaining to the :

A. National Ombudsman Hearing transcript, March 2002.

B. An Index of all Ombudsman documents in the possession of the EPA OIG related to the Marjol Battery Site.

If you deny this entire request or any portion of it, please provide a formal determination which explicitly refers to the statutory basis for your denial and cite each specific exemption you feel justifies the refusal to release the information and notify me of the proper appeal process available to me under law.

Concerned Citizens for the Environment of Throop, Inc. is a nonprofit organization incorporated under the laws of Pennsylvania and Section 501 (c)(3) of the Federal Internal Revenue Code. We request that EPA OIG waive all fees associated with this request because C.C.E.T seeks this information in the public interest and will not benefit commercially from this request. If EPA OIG does not waive the fees entirely, C.C.E.T requests that the fees be reduced to the full extent possible.

C.C.E.T meets all factors in the EPA's OIG governing regulations for a fee waiver or reduction of fees, as well as, the requirements of a fee waiver under the FOIA statute as demonstrated below. If EPA OIG feels this information is not sufficient to justify the fee waiver, please contact me through E-Mail for further documentation before deciding upon the fee waiver request.

A. Public Interest Factor

The disclosure of the information requested is in the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. "

1. The request concerns the operations or activities of the Federal Government

C.C.E.T's request concerns the public documents relating to the Marjol Battery and Equipment Company and the National Ombudsman hearing transcript and interrogatories .The Ombudsman hearing was

conducted by the U.S. Environmental Protection Agency (EPA), as part of the public decision making process regarding the hazardous waste facility known as the Marjol Battery and Equipment Company. The RCRA public participation requirements and the EPA's Ombudsman's handling of matters related to it thus bear upon the determinations and the policies and procedures on which they are based are unquestionably identifiable operations and activities of the government.

2. The disclosure is "likely to contribute to an understanding of government operation and activities"

On April 6, 1988, the United States Environmental Protection Agency (USEPA) issued a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Order to perform emergency removal actions under Section 106(a) of CERCLA, in response to elevated lead concentrations on-site and off-site in residential areas. On June 11, 1990, a Resource Conservancy and Recovery Act (RCRA) Administrative Order of Consent was signed between Gould and the EPA. On December 4, 2000, USEPA and PADEP issued final decision on remedy for the site and on July 13, 2006, a RCRA Administrative Order on Consent which put forth the requirements for implementing the corrective measures in the Final Remedy for the site. On May 12, 2008, the construction of the final remedy began.

Through public participation requirements, RCRA 7004(b) directs EPA to provide for, encourage, and assist public participation in the development, revision, implementation and enforcement of any regulation, guideline or program under the Act. The information on public participation in the decision making process fulfills the requirement of "meaningfully informative." The Ombudsman Hearing was a public document. The requested documents are not currently part of the public domain and are not accessible other than through a FOIA request.

3. The information will contribute to the understanding of the general public-a reasonably broad audience of persons interested in the subject matter.

The information will contribute to the understanding of the general public-a reasonably broad audience interested in the subject matter. The general public is already following C.C.E.T's and the matters related to the Marjol Battery and Equipment Company hazardous waste site. C.C.E.T is able to ensure that information will be disseminated to the general public. C.C.E.T has over 600 members. Our website and social media sites are heavily trafficked. Since our creation of these sites in 2009, we have reached many countries and have over 300,000 views. The information will assist in educating the public and decision-makers to benefit the public's concern and discharge of its trust to protect the environment of Throop. We intend to disseminate the information in a variety of ways, including but not limited to, media sources, posting on the organizations website and social media sites and emailing to members.

4. The information will contribute "significantly" to public understanding of government operations or activities.

The information C.C.E.T seeks will contribute "significantly" to the ongoing public because the requested information has not been made available to the public and yet they were essential to evaluating the hazardous waste site and EPA's involvement in the decision making process. In fact, vast amounts of material related to the Marjol Battery and Equipment Company's have been withheld from the public. In 2000, citizens of the Borough of Throop, Pa., along with the local government and the Pennsylvania Congressional Delegation of U.S. Senators Arlen Specter, U.S. Senator Rich Santorum and U.S. Representative Don Sherwood, requested the assistance of National Ombudsman in order to have an independent, expedited investigation of the Marjol Battery Site. A National Ombudsman Hearing, on the record, was an important part of that process. However, on December 4, 2000, the EPA provided their

Final Decision on a remedy for the site without allowing the requested independent, expedited investigational to continue. Without notice, the National Ombudsman was removed from the Marjol case.

These documents then, will enhance the public understanding of the decisions made compared to the level of public understanding prior to these documents being disclosed. Without these documents, the public will not, for instance, understand how RCRA capping was determined to be the best alternative for the site for an illegal, unlined, hazardous waste site. This documents will allow the public and independent experts who may view our social media sites to fully assess the conclusions and provide meaningful comments on those conclusions in which the current residents seek to know. For instance, how RCRA was selected, the interrogatories of the Ombudsman and the actions of EPA in the decision process.

B. Commercial Interest Factor

C.C.E.T is a non-profit organization. It has no commercial, or profit interest in these documents requested. We will use the information to inform the public and support advocacy efforts around sustaining a healthy environment for Throop Borough and surrounding communities which is entirely in the public interest. Because of the impact the Marjol Battery and Equipment Company site has on the health, safety, and welfare of the public and on the environment, disclosure is in the public interest.

Thank you for your consideration of this request.

Sincerely,

Concerned Citizens for the Environment of Throop, Pa. Inc
Elizabeth T. Hahn-Mattioli
609 Dunmore Street
Throop, PA 18512
(570) 489-0599
lizshrt525@msn.com